

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**FILED**

**MAR - 6 2007**

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY DM  
DEPUTY CLERK

**WESLEYANN EMPTAGE, by and through her  
next friend and mother, Raouitee Pamela Puran,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-158-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; JULIE L.  
MYERS, Assistant Secretary, U.S. Immigration  
and Customs Enforcement (ICE); JOHN P.  
TORRES, Director, Office of Detention and  
Removal Operations, ICE; MARC MOORE, ICE  
Field Office Director; GARY MEAD, Assistant  
Director of Detention and Removal Operations at  
ICE; Simona Colon, ICE Officer in Charge; and  
JOHN POGASH, ICE National Juvenile  
Coordinator,**

**Defendants.**

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**ANGELINA JULIET TOME CARBAJAL, by  
and through her next friend and mother,  
Elsa Carbajal,**

**Plaintiff,**

**-vs-**

**Case No. A-07-CA-159-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**RICHARD ANDERSON TOME CARBAJAL, by  
and through his next friend and mother,  
Elsa Carbajal,**

**Plaintiff,**

**-vs-**

**Case No. A-07-CA-160-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**MOHAMMED IBRAHIM, by  
and through his next friend and mother,  
Deka Warsame,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-161-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**BAHJA IBRAHIM, by  
and through her next friend and mother,  
Deka Warsame,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-162-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**AISHA IBRAHIM, by  
and through her next friend and mother,  
Deka Warsame,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-163-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**SAULE BUNIKYTE, by  
and through his next friend and mother,  
Rasa Bunikiene,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-164-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**EGLE BAUBONYTE, by  
and through her next friend and mother,  
Rasa Bunikiene,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-165-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**SHERONA VERDIEU, by  
and through her next friend and mother,  
Delourdes Verdieu,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-166-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**KEVIN YOURDKHANI, by  
and through his next friend and mother,  
Masomeh Alibegi,  
Plaintiff,**

**-vs-**

**Case No. A-07-CA-167-SS**

**MICHAEL CHERTOFF, Secretary of U.S.  
Department of Homeland Security; et al.,  
Defendants.**

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**ORDER**

BE IT REMEMBERED on the \_\_\_\_ day of March 2007 the Court reviewed the files in the  
above-styled causes, specifically Plaintiff Wesleyann Emptage's Motion to Consolidate these related

cases, all Plaintiffs' Motions for Temporary Restraining Orders to prevent separation from their parents, and all Plaintiffs' Motions for Preliminary Injunctions ordering their immediate supervised release with their parents and permitting Plaintiffs' counsel and experts to inspect the Don T. Hutto Family Residential Center and examine Plaintiffs.

The Court declines to consolidate these cases at this time, noting that although the cases are related, facts unique to each plaintiff (for example, whether each child has adult relatives who are not in custody, whether each child has any special mental or physical needs, and whether certain plaintiffs are related as siblings) may affect future determinations in these cases. The motion to consolidate is therefore DENIED without prejudice to re-urging on a more complete factual record.

The Court also declines to enter an ex parte temporary restraining order. Plaintiffs have cited no authority for the proposition that Defendants may not release the minor Plaintiffs without simultaneously releasing their parents. In particular, paragraph 14 of the Flores agreement, on which Plaintiffs rely, obligates Defendants to release minor plaintiffs "without unnecessary delay" but does not direct the release of a parent in custody or require the continued detention of minors until the simultaneous release of their parents can be obtained.<sup>1</sup> Therefore, the Motions for Temporary Restraining Order are DENIED without prejudice to re-urging in the hearing regarding preliminary injunctive relief.

IT IS ORDERED that Defendants are hereby required to file a reply to the equitable remedies sought by each Plaintiff on or before **March 16, 2007**. In order that this may be done, it is ordered that counsel for Plaintiffs shall immediately serve the United States Attorney with a copy of the


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<sup>1</sup>In fact, Paragraph 14 lists several alternative custodians, including adult relatives or an adult individual designated by the child's parent, who would presumably be appropriate guardians if a child were released while his parent remained in custody.

complaint and the motion for injunctive relief. This may be accomplished by electronic mail or personal service. The Clerk of this Court shall immediately notify the United States Attorney of the pendency of these suits with identifying cause numbers in order for the United States Attorney to obtain the pleadings immediately by electronic means. The Clerk of the Court shall further send electronically or by fax to the United States Attorney a copy this Order.

IT IS FURTHER ORDERED that these cases are SET FOR HEARING regarding all preliminary equitable relief on March 20, 2007, at 9:00 A.M. in Courtroom No. 2, United States Courthouse, 200 West Eighth Street, Austin, Texas. Counsel for plaintiffs are responsible for notifying Defendants of the time and place of this hearing.

SIGNED this the 17 day of March 2007.

  
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SAM SPARKS  
UNITED STATES DISTRICT JUDGE